THE HONOURABLE SRI JUSTICE V. ESWARAIAH

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WRIT PETITION NO.23776 of 2005

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DATED: 09-11-2005

Between:

Shriram Refrigeration Industries

(Tecumseh Products India Private Ltd.)

Mazdoor Union, bearing regd.No.B-2312,

Balanagar, Hyderabad – 37, rep.by its

General Secretary Sri M.S.Suresh Kumar

S/o. M. Swamy Rao, aged about 55 years,

Occ: Employee, R/o. Hyderabad …Petitioner

And

The Returning Officer and

Deputy Commissioner of Labour,

Hyderabad(Twin Cities) and

Four others …Respondents

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WRIT PETITION NO.23776 of 2005

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ORDER:

This writ petition is filed seeking to declare the action of the first respondent in fixing the date of verification polls as 13-11-2005, without giving any opportunity to the petitioner-recognized union as illegal and arbitrary.

Petitioner is one of the four recognized unions of the 5th respondent-M/s. Tecumseh Products India Private Limited, Balanagar, Hyderabad.

The grievance of the petitioner is that the first respondent issued a notice dated 24-10-2005 informing all the four recognized unions i.e. the petitioner as well as the respondents 2,3 and 4 that the elections through the secret ballot to determine the majority union in respect of the 5th respondent industry shall be held and in that connection a draft voters list is enclosed along with the said notice and the unions are requested to attend the office on
28-10-2005 at 11.00a.m. for filing objections, if any, on the draft voters list in writing and for finalizing the date of election. It is stated that the petitioner and other unions have attended the office of the Returning Officer-first respondent, but the first respondent abruptly left the office without fixing any date of election and the date of election has been fixed as 13-11-2005. It is stated that the petitioner wanted to raise objections with regard to the main employees who are no longer voters on account of death and retirement.

Admittedly, no opportunity has been afforded to the petitioners for raising objections if any as to the voters list. The only grievance of the petitioner is that even prior to the fixation of the date of election, there was neither any intimation nor any notice to the petitioner.

However, today, the learned counsel appearing for the petitioner produced the proceedings of the Deputy Commissioner of Labour, dated 03-11-2005 which goes to show that a notice dated 08-08-2005 has been sent to all the four unions instructing them to submit their registers and records and second and final notice was also issued on 28-09-2005 for production of registers and records and the 5th respondent also requested to submit muster roll of workmen employed in the factory as on 01-08-2005. Accordingly, the management submitted the muster roll of workmen. As per the previous practice, the muster roll of the workmen has been adopted as voters list. All the workmen, who are borne on the muster rolls as on 01-08-2005, are eligible to vote and the list of the voters was also communicated to all the recognized unions. In respect of the petitioner's union also, a symbol of tiger has been allotted and the other three recognized unions were also allotted with different symbols. The proceedings dated 03-11-2005 were also served on the unions. It is stated that the same has been received only on 08-11-2005. It is stated that by

taking into account the previous practice, the other three unions have been permitted to conduct gate meeting on different dates, i.e. 11-11-2005, 09-11-2005,and 10-11-2005 respectively and the petitioner is permitted to conduct gate meeting on 12-11-2005, and the election may be scheduled to be held on 13-11-2005 between 7.00a.m. and 4.00p.m. It is also submitted that each union is permitted one polling agent at each booth with a reliever and two counting agents and the counting of votes would be taken up after the closure of the polling with a gap of half an hour.

The above proceedings clearly goes to show that the authorities have followed certain set of procedure by giving an opportunity to the union concerned for conducting the elections.

In view of the procedure and schedule as set out in the proceedings, I feel that no prejudice would be caused to the petitioner. Therefore, I do not see any justification to postpone the elections. Hence, I see no merits in this writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. However, it is made clear that in case there are any irregularities or any violation in the BSO and regulations, it is always open to the petitioner to avail his remedy before the appropriate forum, if so advised.

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V. ESWARAIAH, J.

Dated: 07-11-2005

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